



House of Representatives

File No. 809

General Assembly

January Session, 2001

(Reprint of File Nos. 10 and 487)

Substitute House Bill No. 5923
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 24, 2001

**AN ACT CONCERNING STATE PURCHASES OF GOODS AND
SERVICES AND COOPERATIVE PURCHASING FOR NONPROFIT
INDEPENDENT HIGHER EDUCATION INSTITUTIONS.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subsection (g) of section 18-88 of the general statutes is
2 repealed and the following is substituted in lieu thereof:

3 (g) Each state department, agency, commission or board shall
4 purchase its necessary products and services from the institution
5 industries if such products and services are produced or manufactured
6 and made available by such industries, provided such products and
7 services are of comparable price and quality and in sufficient quantity
8 as may be available for sale or offered for sale outside the institutions.
9 [Except for emergency purchases made under section 4-98, the
10 Comptroller shall not approve any purchase order or commitment for
11 the purchase, other than from such industries, of any such supplies,
12 materials or products as are listed in said catalog and available in
13 sufficient quantity from such industries.]

14 Sec. 2. Section 4a-54 of the general statutes is repealed and the
15 following is substituted in lieu thereof:

16 [Newington Children's Hospital] Connecticut Children's Medical
17 Center, The American School at Hartford for the Deaf, The Connecticut
18 Institute for the Blind, [and] any other institution or agency which
19 receives at least sixty per cent of its funding from the state or federal
20 government, or both, and, by contract, any independent college or
21 university, as defined in section 10a-37, may each purchase through
22 the Commissioner of Administrative Services such supplies, materials,
23 equipment or contractual services as such institutions require at the
24 cost thereof to the state.

25 Sec. 3. Section 4a-59 of the general statutes is repealed and the
26 following is substituted in lieu thereof:

27 (a) As used in this section, (1) "lowest responsible qualified bidder"
28 means the bidder whose bid is the lowest of those bidders possessing
29 the skill, ability and integrity necessary to faithful performance of the
30 work based on objective criteria considering past performance and
31 financial responsibility, and (2) "highest scoring bidder in a multiple
32 criteria bid" means the bidder whose bid receives the highest score for
33 a combination of attributes, including, but not limited to, price, skill,
34 ability and integrity necessary for the faithful performance of the work,
35 based on multiple criteria considering quality of product, warranty,
36 life-cycle cost, past performance, financial responsibility and other
37 objective criteria that are established in the bid solicitation for the
38 contract.

39 (b) All bids and proposals submitted as provided in section 4a-57
40 shall be based on such standard specifications as may be adopted by
41 the Commissioner of Administrative Services or [his] the
42 commissioner's designee. Bidders shall submit with their bids essential
43 information concerning their qualifications, in such form as the
44 commissioner may require by specification in the bid documents. The
45 commissioner may, after adopting the regulations required by

46 subdivision (11) of section 4a-52, waive minor irregularities in bids and
47 proposals if [he] the commissioner determines that such a waiver
48 would be in the best interest of the state. The commissioner shall state
49 the reasons for any such waiver in writing and include such statement
50 in the contract file.

51 (c) All open market orders or contracts shall be awarded to (1) the
52 lowest responsible qualified bidder, the qualities of the articles to be
53 supplied, their conformity with the specifications, their suitability to
54 the requirements of the state government and the delivery terms being
55 taken into consideration and, at the discretion of the Commissioner of
56 Administrative Services, life-cycle costs and trade-in or resale value of
57 the articles may be considered where it appears to be in the best
58 interest of the state, [or] (2) the highest scoring bidder in a multiple
59 criteria bid, in accordance with the criteria set forth in the bid
60 solicitation for the contract, or (3) the proposer whose proposal is
61 deemed by the awarding authority to be the most advantageous to the
62 state, in accordance with the criteria set forth in the request for
63 proposals, including price and evaluation factors. Notwithstanding
64 any provision of the general statutes to the contrary, each state agency
65 awarding a contract through competitive negotiation shall include
66 price as an explicit factor in the criteria in the request for proposals and
67 for the contract award. In considering past performance of a bidder for
68 the purpose of determining the "lowest responsible qualified bidder"
69 or the "highest scoring bidder in a multiple criteria bid", the
70 commissioner shall evaluate the skill, ability and integrity of the
71 bidder in terms of the bidder's fulfillment of past contract obligations
72 and the bidder's experience or lack of experience in delivering
73 supplies, materials, equipment or contractual services of the size or
74 amount for which bids have been solicited. In determining the lowest
75 responsible qualified bidder for the purposes of this section, the
76 commissioner may give a price preference of up to ten per cent for (A)
77 the purchase of goods made with recycled materials or the purchase of
78 recyclable or remanufactured products if the commissioner determines
79 that such preference would promote recycling or remanufacturing. As

80 used in this subsection, "recyclable" means able to be collected,
81 separated or otherwise recovered from the solid waste stream for
82 reuse, or for use in the manufacture or assembly of another package or
83 product, by means of a recycling program which is reasonably
84 available to at least seventy-five per cent of the state's population,
85 "remanufactured" means restored to its original function and thereby
86 diverted from the solid waste stream by retaining the bulk of
87 components that have been used at least once and by replacing
88 consumable components and "remanufacturing" means any process by
89 which a product is remanufactured; (B) the purchase of motor vehicles
90 powered by a clean alternative fuel; or (C) the purchase of motor
91 vehicles powered by fuel other than a clean alternative fuel and
92 conversion equipment to convert such motor vehicles allowing the
93 vehicles to be powered by either the exclusive use of clean alternative
94 fuel or dual use of a clean alternative fuel and a fuel other than a clean
95 alternative fuel. As used in this subsection, "clean alternative fuel" shall
96 mean natural gas or electricity when used as a motor vehicle fuel. All
97 other factors being equal, preference shall be given to supplies,
98 materials and equipment produced, assembled or manufactured in the
99 state and services originating and provided in the state. If any such
100 bidder refuses to accept, within ten days, a contract awarded to such
101 bidder, such contract may be awarded to the next lowest responsible
102 qualified bidder or the next highest scoring bidder in a multiple
103 criteria bid, whichever is applicable, and so on until such contract is
104 awarded and accepted. If any such proposer refuses to accept, within
105 ten days, a contract awarded to such [bidder] proposer, such contract
106 shall be awarded to the next most advantageous proposer, and so on
107 until the contract is awarded and accepted. There shall be a written
108 evaluation made of each bid. This evaluation shall identify the vendors
109 and their respective costs and prices, document the reason why any
110 vendor is deemed to be nonresponsive and recommend a vendor for
111 award. A contract valued at one million dollars or more shall be
112 awarded to a bidder other than the lowest responsible qualified bidder
113 or the highest scoring bidder in a multiple criteria bid, whichever is
114 applicable, only with written approval signed by the Commissioner of

115 Administrative Services and by the Comptroller. The commissioner
116 shall submit to the joint standing committee of the General Assembly
117 having cognizance of matters relating to government administration,
118 the State Auditors and the Comptroller, an annual report of all awards
119 made pursuant to the provisions of this section.

120 (d) When, in the opinion of the commissioner, the best interest of
121 the state will be served thereby, [he] the commissioner may order that
122 any or all bids or proposals may be rejected. If all bids or proposals are
123 so rejected, the commissioner shall advertise again for bids or
124 proposals and such bids or proposals shall be opened, awarded and
125 approved in like manner as provided in this section and section 4a-57.
126 If all bids or proposals received on a pending contract are for the same
127 unit price or total amount and no distinction can be made in favor of
128 supplies, materials and equipment produced, assembled or
129 manufactured in the state or services originating and provided in the
130 state, the commissioner shall have authority to order the rejection of all
131 bids or proposals and to order the purchase of the required supplies,
132 materials, equipment or contractual services in the open market,
133 provided the price paid in the open market shall not exceed the bid or
134 proposal price.

135 (e) Each bid or proposal, with the name of the bidder, or proposer,
136 shall be entered on a record, and each record, with the successful bid
137 or proposal indicated thereon, shall, after the award of the order or
138 contract, be open to public inspection. All contracts shall be approved
139 as to form by the Attorney General and a copy of each contract shall be
140 filed with the Comptroller.

141 (f) Not later than February 1, 2002, the Commissioner of
142 Administrative Services shall adopt regulations, in accordance with the
143 provisions of chapter 54, indicating the types of objective criteria that
144 the commissioner may use in determining the highest scoring bidder
145 in a multiple criteria bid under this section. Said commissioner shall
146 submit a report on said date, concerning the status of the adoption of
147 said regulations by the commissioner, to the joint standing committee

148 of the General Assembly having cognizance of matters relating to
149 government administration.

150 Sec. 4. Subsections (f) and (g) of section 2-71p of the general statutes
151 are repealed and the following is substituted in lieu thereof:

152 (f) As used in this section, (1) "lowest responsible qualified bidder"
153 means the bidder whose bid is the lowest of those bidders possessing
154 the skill, ability and integrity necessary to faithful performance of the
155 work based on objective criteria considering past performance and
156 financial responsibility, and (2) "highest scoring bidder in a multiple
157 criteria bid" means the bidder whose bid receives the highest score for
158 a combination of attributes, including, but not limited to, price, skill,
159 ability and integrity necessary for the faithful performance of the work,
160 based on multiple criteria considering quality of product, warranty,
161 life-cycle cost, past performance, financial responsibility and other
162 objective criteria that are established in the bid solicitation for the
163 contract. Bidders shall submit with their bids essential information
164 concerning their qualifications, in such form as the committee may
165 require by specification in the bid documents. The committee may
166 waive minor irregularities in bids and proposals if it determines that
167 such a waiver would be in the best interest of the state. As used in this
168 subsection, the term "minor irregularities" shall not include variations
169 in the quality, unit price or date of delivery or completion of supplies,
170 materials, equipment or contractual services, or exceptions to
171 programs required under the general statutes. The committee shall
172 state the reasons for any such waiver in writing and include such
173 statement in the contract file.

174 (g) All open market orders or contracts shall be awarded to (1) the
175 lowest responsible qualified bidder, the qualities of the articles to be
176 supplied, their conformity with the specifications, their suitability to
177 the requirements of the state government and the delivery terms being
178 taken into consideration and, at the discretion of the committee,
179 life-cycle costs and trade-in or resale value of the articles may be
180 considered where it appears to be in the best interest of the

181 department, [or] (2) the highest scoring bidder in a multiple criteria
182 bid, in accordance with the criteria set forth in the bid solicitation, or
183 (3) the proposer whose proposal is deemed by the committee to be the
184 most advantageous to the department, in accordance with the criteria
185 set forth in the request for proposals, including price and evaluation
186 factors. In considering past performance of a bidder for the purpose of
187 determining the "lowest responsible qualified bidder" or the "highest
188 scoring bidder in a multiple criteria bid", the committee shall evaluate
189 the skill, ability and integrity of the bidder in terms of the bidder's
190 fulfillment of past contract obligations and [his] the bidder's
191 experience or lack of experience in delivering supplies, materials,
192 equipment or contractual services of the size or amount for which bids
193 have been solicited. If any such bidder refuses to accept, within ten
194 days, a contract awarded to [him] such bidder, such contract may be
195 awarded to the next lowest responsible qualified bidder or the next
196 highest scoring bidder in a multiple criteria bid, whichever is
197 applicable, and so on until such contract is awarded and accepted. If
198 any such proposer refuses to accept, within ten days, a contract
199 awarded to [him] such proposer, such contract shall be awarded to the
200 next most advantageous proposer, and so on until the contract is
201 awarded and accepted. There shall be a written evaluation made of
202 each bid. This evaluation shall: Identify the vendors and their
203 respective costs and prices; document the reason why any vendor is
204 deemed to be nonresponsive; and recommend a vendor for award. The
205 committee shall submit to the Auditors of Public Accounts an annual
206 report of all awards made pursuant to the provisions of this section.

207 Sec. 5. Sections 2-71w and 4a-57c of the general statutes are
208 repealed.

209 Sec. 6. This act shall take effect July 1, 2001.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Indeterminate Savings and Minimal Costs

Affected Agencies: Department of Administrative Services,
Legislative Management, State Comptroller

Municipal Impact: None

Explanation

State Impact:

The bill eliminates the requirement that prohibits the State Comptroller from approving any purchase order or commitment for materials or products if they are available in sufficient quantity through the Department of Correction Industries Program. This reflects current practice and will result in no additional cost to the state. The Comptroller has not had to disapprove purchase orders due to the availability of products in the Correction's Industries Program, as there is not an established system to procure and manage that information.

The bill also makes permanent the two-year pilot programs that allowed the Department of Administrative Services (DAS) and Legislative Management to award contracts through consideration of multiple criteria rather than to the lowest bidder. This could result in indeterminate savings to the state in the long run. Multiple criteria purchasing allows the agencies to consider such things as quality, length of warrantee, life-cycle cost, past performance and other

objective factors in addition to price.

DAS awarded 15 contracts to the highest scoring multiple criteria bidder rather than the low bidder during the pilot project. These ranged from products such as window shades, vertical blinds and windshields, to services such as professional testing, soil testing and moving services. While the initial cost of the contract might be somewhat higher, the consideration of other criteria could result in the purchase of goods that have longer life, higher quality and lower costs in the long run.

DAS is required to adopt regulations that specify the types of objective criteria that will be used to determine the highest scoring multiple criteria bidder, and provide a status report on the regulations to the GAE Committee by February 1, 2002. This results in minimal, absorbable costs to DAS.

House Amendment "A" eliminates provisions in the original bill regarding cooperative purchasing plans and expanding the cooperative purchasing of goods and services by towns. This eliminates minimal costs for DAS and eliminates potential significant savings for municipalities.

OLR Amended Bill Analysis

sHB 5923 (as amended by House "A")*

AN ACT CONCERNING STATE PURCHASES OF GOODS AND SERVICES AND COOPERATIVE PURCHASING FOR MUNICIPALITIES AND NONPROFIT INDEPENDENT HIGHER EDUCATION INSTITUTIONS.

SUMMARY:

This bill makes several changes in state purchasing laws. Specifically, it:

1. makes permanent the Department of Administrative Services (DAS) commissioner's and the Legislative Management Committee's authority to award state contracts to the highest scoring bidder in a multiple-criteria bid;
2. expands the comptroller's authority to approve state agencies' purchases of products and material from vendors other than the Connecticut prison industries; and
3. allows independent colleges and universities to purchase supplies, material, equipment, and contractual services at the cost to the state by contracting with DAS.

*House Amendment "A" eliminates provisions in the original bill regarding cooperative purchasing plans and the purchase of goods and services by towns.

EFFECTIVE DATE: July 1, 2001

MULTIPLE CRITERIA BIDS

The bill makes permanent the two-year pilot programs that allowed DAS and the Legislative Management Committee to award state contracts to the highest-scoring bidder in a multiple-criteria bid rather than to the lowest responsible qualified bidder. The multiple-criteria

approach allows the commissioner and the committee to consider more than price, skill, ability, and integrity when awarding a contract. They may also consider such things as product quality and objective criteria the contract establishes.

The bill requires the commissioner to (1) adopt regulations by February 1, 2002 specifying the types of objective criteria she will use to determine the highest-scoring bidder in a multiple-criteria bid and (2) submit a status report on the regulations to the Government Administration and Elections Committee on February 1, 2002.

PURCHASES FROM THE PRISON INDUSTRIES

The bill permits the state comptroller to approve purchases of material and products from regular vendors even if the items are available in sufficient quantity from the prison industries. Currently, she can approve such purchases only in an emergency.

By law, each state agency must purchase necessary products and services from prison industries if they are offered (1) at comparable price and quality and (2) in sufficient quantity as may be available from private vendors to meet the agency's need.

BACKGROUND

Legislative History

The House referred the bill (Files 10 and 487) to the Planning and Development, Education, Legislative Management, and Judiciary committees on March 9, 22, May 1, and May 9, respectively. Planning and Development reported it unchanged on March 19; Education reported it with a technical change on April 6; and Legislative Management and Judiciary reported it unchanged on May 8 and May 16, respectively.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 18 Nay 0

Planning and Development Committee

Joint Favorable Report

Yea 18 Nay 0

Education Committee

Joint Favorable Substitute

Yea 29 Nay 0

Legislative Management Committee

Joint Favorable Report

Yea 21 Nay 0

Judiciary Committee

Joint Favorable Report

Yea 34 Nay 1